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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/083,054	02/26/2002	Kevin J. Schulz	S01.12-0829/STL 10301	4383

7590 09/13/2004  
Theodore M. Magee  
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International Centre - Suite 1600  
900 South Second Avenue  
Minneapolis, MN 55402-3319

EXAMINER

KLIMOWICZ, WILLIAM JOSEPH

ART UNIT	PAPER NUMBER
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2652

DATE MAILED: 09/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

10/083,054

Applicant(s)

SCHULZ ET AL.

Examiner

William J. Klimowicz

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--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY** [check either a) or b)]

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.
- b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☒ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: \_\_\_\_\_.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.


Claim(s) rejected: 1,2,6,7,13,15,16,21,23 and 24.

Claim(s) withdrawn from consideration: 3-5,8-12,14,17-20,22 and 25.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.

9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 07262004.

10. ☐ Other: \_\_\_\_\_

  
William J. Klimowicz  
Primary Examiner  
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Continuation of 2. NOTE: The proposed amendments to the claims raise NEW issues requiring further consideration and/or search by the Examiner.

***Non-Compliant After-Final Amendment***

It is noted that the After-Final Amendment filed July 26, 2004 is **NOT** in compliance with 37 *CFR* 1.121 (as amended on July 30, 2003). More concretely, it is noted that the status identifier (Withdrawn-Previously Presented) as designated for claims 3-5 and 8-12 is NOT permissible. The *permissible* eight status identifiers are:

1.     **(Original)**
2.     **(Currently amended)**
3.     **(Canceled)**
4.     **(Withdrawn)**
5.     **(Withdrawn-currently amended)**
6.     **(Previously presented)**
7.     **(New)**
8.     **(Not entered)**

***Time Period for Response Continues to Run***

It is further noted that the time period for the non-compliant after-final amendment continues to run and no new time period will be provided in the advisory action for the non-compliant after-final amendment.

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***Information Disclosure Statement***

The Applicants' submission of the supplemental information disclosure statement, filed July 26, 2004 has again not been considered.

More concretely, the Supplemental PT0-1449 filed indicates that the submission to be considered is an "Official Search Report of EPO for PCT/US02/06006, Filed February 26, 2002."

It is noted, however, that the Applicants have merely supplied *as the references to be considered*, a "Form PCT/RO/105," a "Form PCT/RO/146" and a "Form PCT/RO/101" and merely the first page of a "Form PCT/ISA/202."

The reference listed on P10-1449 has not been considered since the expressly supplied references are NOT the "Official Search Report of EPO for PCT/US02/06006, Filed February 26, 2002." As previously stated, any further submission for consideration must now comply with 37 CFR 1.97 and will be treated as a filing after the mailing of an Office action made FINAL.

Additionally, the information disclosure statement filed July 26, 2004 fails to comply with 37 CFR 1.97(d) because it lacks a statement as specified in 37 CFR 1.97(e) and/or the fee set forth in 37 CFR 1.17(p). It has been placed in the application file, but the information referred to therein has not been considered.

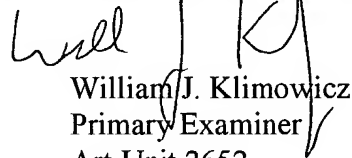
***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William J. Klimowicz whose telephone number is (703) 305-3452. The examiner can normally be reached on Monday-Thursday (6:30AM-5:00PM).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa T. Nguyen can be reached on (703) 305-9687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William J. Klimowicz  
Primary Examiner  
Art Unit 2652

WJK